

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

TIMOTHY F.L. HAYES, a resident of	)	
the United Kingdom	)	
	)	
Plaintiff,	)	
v.	)	No.: 08 C 632
	)	
FIRST CHICAGO MORTGAGE CO., an	)	
Illinois corporation, JASON J. LAMBERT,	)	
an Illinois resident, KROLL FACTUAL	)	
DATA CORPORATION, a Colorado	)	
corporation, JOHN DOES 1-5, and ABC	)	
CORPORATIONS 1-5,	)	
	)	
Defendants.	)	

**Response to Plaintiff's Motion to Extend Time to Serve Complaint upon Defendant  
Lambert and Rule Waiver of Service Effective**

NOW COMES the Defendant, FIRST CHICAGO MORTGAGE CO., by and through its attorneys, KEVIN W. DOHERTY, and DOHERTY & PROGAR, LLC, and submits the following Response to Plaintiff's Motion to Extend Time to Serve Complaint upon Defendant Lambert and Rule Waiver of Service Effective:

1. Plaintiff has filed the Motion in issue seeking an extension of time to serve Defendant Jayson Lambert, and seeking reimbursement for costs necessary to effectuate service upon Mr. Lambert after June 12, 2008.

2. At the time of the alleged occurrence in question, Mr. Lambert was employed by First Chicago Mortgage Co. ("First Chicago"). First Chicago is currently being defended by counsel through a policy of insurance through U.S. Liability Insurance Company.

3. After receipt of notice of this action, Mr. Lambert was informed, via correspondence, that a defense would be provided to him through the insurance policy purchased

by First Chicago as an employee during the relevant time period. Numerous further correspondences, e-mails and telephone calls were placed reiterating this message, and informing Mr. Lambert that his cooperation was necessary in order to secure this defense.

4. Plaintiff's counsel was subsequently informed that it was possible that counsel for First Chicago would also represent Mr. Lambert as a former employee of First Chicago, but that he had certain obligations to fulfill in order to obtain that defense. (See Exhibit A, e-mail correspondence). Plaintiff's counsel was further informed that only Mr. Lambert could make the decision on whether to waive service. (See Exhibit A).

5. Subsequently, on May 29, counsel had the opportunity to speak with Mr. Lambert for the first time. Thereafter, Mr. Lambert indicated that he would allow counsel to accept service on his behalf.

6. With this in mind, counsel for First Chicago will file an appearance on behalf of Mr. Lambert, and Plaintiff's Motion is moot.

WHEREFORE, Defendant, FIRST CHICAGO MORTGAGE CO., respectfully requests that this Court deny Plaintiff's Motion because it has been rendered moot.

Respectfully Submitted,  
DOHERTY & PROGAR, LLC

/s/ Kevin W. Doherty  
Attorney for the Defendant

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